

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW HAMPSHIRE**

**In re: Donald B. Flanagan &
Jan R. Flanagan,
Debtors**

**Chapter 13
Case No. 23-10522-BAH**

**Lisa J. Bellanti, Special Administrator
of the Estate of Janet L. Flanagan,
Movant**

v.

**Donald B. Flanagan,
Debtor/Respondent**

**MOTION OF LISA J. BELLANTI,
SPECIAL ADMINISTRATOR OF THE ESTATE OF JANET L. FLANGAN,
FOR RELIEF FROM THE AUTOMATIC STAY**

NOW COMES Lisa J. Bellanti, Esquire, in her capacity as Special Administrator of the Estate of Janet L. Flangan (“Movant”), a creditor in this case, by and through her attorneys, Ford, McDonald & Borden, P.A. and submits this Motion for Relief, saying as follows:

PARTIES AND JURISDICTION

1. This is a contested matter brought pursuant to § 362(d), Title 11, United States Code (“Bankruptcy Code”) and Bankruptcy Rule 4001(a).
2. Jurisdiction in the Court arises under 28 U.S.C. §1334.
3. The United States District Court for the District of New Hampshire has referred all cases under Title 11 and all proceedings arising under Title 11 to the Bankruptcy Judges for this District.
4. This is a core proceeding as defined in 28 U.S.C. § 157(b)(2)(G) being a Motion for Stay Relief.
5. The Movant, Lisa J. Bellanti, is a New Hampshire attorney who has been appointed Special Administrator of the Estate of Janet L. Flanagan in the New Hampshire Circuit

Court, 3rd Circuit, Probate Division-Ossipee (the “Probate Court”), docket no. 312-2020-ET-381, and has a business address at 459 Lafayette Road, Hampton, New Hampshire 03842.

6. The Debtor Donald B. Flanagan is an individual with a residence at 116 Castle Shore Road, Moultonborough, New Hampshire 03254.

FACTUAL BACKGROUND

7. The factual background pertaining to this request for relief from the automatic stay is set forth in more detail in the Petition to Surcharge Former Fiduciaries for Breach of Fiduciary Duty (“Petition to Surcharge”) which Movant filed the Probate Court and which is submitted herewith as *Exhibit A*.

8. Janet L. Flanagan died testate on August 21, 2020.

9. At the time of her death, she was a resident of the Commonwealth of Massachusetts.

10. Ms. Flanagan owned real estate located at 112 Castle Shore Drive, Moultonborough, New Hampshire.

11. A Petition for Estate Administration was filed in the Probate Court on October 13, 2020. After filing a \$500,000 bond, Donald B. Flanagan (*aka* Donald B. Flanagan, Jr.) and Deborah Flanagan were appointed co-executors on October 30, 2020.

12. On December 28, 2020, an Amended Inventory was filed by Donald B. Flanagan and Deborah Flanagan. The inventory listed the Moultonborough real estate as having a value of \$1,000,000 and personal property having a value of \$5,900.

13. The former co-executors filed a first accounting on January 28, 2022 (“the Accounting”). A timely objection to the Accounting was filed on February 25, 2022.

14. On November 7, 2022, Movant was appointed as Special Administrator of the Estate of Janet L. Flanagan.

15. The Estate currently consists solely of a Citizens Bank account with a balance of \$100,719.11.

16. Prior to the appointment of Movant as Special Administrator, the Estate loaned to In Force Technology LLC the sum of \$298,112.01.

17. In Force Technology, LLC is a limited liability company which appears to be owned by Donald Flanagan, Jr. and his son, Brandon Flanagan. Debtor has not filed complete schedules as of the date of this Motion. Movant has alleged in her Petition to Surcharge that Mr. Flanagan is a principal in Force Technology.

18. A promissory note was executed by Brandon Flanagan on November 2, 2021 which provides that the payment is due on November 30, 2022, with 10% interest per annum. After the due date, the interest rate is one and one-half percent per month.

19. Donald B. Flanagan did not sign any personal guaranty for this loan and the loan is unsecured.

20. No payments have been made to the Estate for this note. As such, the entire principal of \$298,112.01 plus interest of \$61,112.96 is due for a total of \$359,224.97.

21. The factual background pertaining to the granting of the “loan” and how the current amount due has been calculated is set forth in more detail in the Petition to Surcharge which Movant filed in state court. See Exhibit A.

22. Movant alleges that the former co-executors breached their fiduciary duty to the Estate by making this loan to In Force Technology LLC. No monies have been paid to the Estate by In Force Technology.

23. The breach of fiduciary duty by the former co-fiduciaries has caused damages to the Estate in the sum of \$359,224.97, which sum continues to increase due to additional costs and fees to the Special Administrator.

RELIEF REQUESTED

24. Movant seeks leave to continue prosecuting litigation in the Probate Court including, without limitation, the Petition to Surcharge Debtor Donald B. Flanagan and his co - executor.

25. The purpose of such litigation is to obtain a ruling that Debtor has breached his fiduciary obligations to the Flanagan Estate and to determine the amount of damages for which he is liable.

26. As a condition of obtaining relief from the automatic stay, Movant affirms that any judgment she may obtain against Debtor will not be satisfied out of his assets or the assets of this bankruptcy estate.

27. There is a surety bond issued by NGM Insurance Company in the amount of \$500,000.00, to secure the faithful performance by the co-executors (including debtor Donald B. Flanagan) of their fiduciary obligations to the Flanagan Estate. See *Exhibit B*.

28. Movant seeks to complete the litigation in the Probate Court for the sole purpose of establishing the amount of the claim which the Flanagan Estate will seek to recover against the bond.

FIRST GROUND FOR RELIEF - 362(d)(1)
FOR CAUSE INCLUDING ADEQUATE PROTECTION

29. The allegations made above are re-alleged and incorporated.

30. Good cause exists because the judgment which Movant is seeking will not affect any asset of Debtor or of this bankruptcy estate.

31. Movant, in her capacity as Special Administrator of the Flanagan Estate, needs relief from stay so she can take such steps as are necessary to perfect its claim against a surety bond.

32. No Memorandum of Law is submitted herewith, as this Motion involves a matter within the Court's discretion and all citations on which Movant relies are contained in this Motion.

33. STATEMENT — MOTION FOR RELIEF WORKSHEET NOT REQUIRED
The Movant states that LBF 4001-1A, Worksheet Completed by the Mortgagee/Servicer in

Support of Motion for Relief from Stay Involving Residential Real Property, is not required to be filed with this motion because Movant is not seeking recourse against Collateral which is residential real estate.

WHEREFORE, Movant respectfully requests that this Honorable Court:

- A. Grant Movant relief from the automatic stay to exercise all of its rights to proceed with the Probate Court action against Debtor on behalf of the Flanagan Estate;
- B. Rule that Movant shall not seek to satisfy any judgment which she may obtain against Mr. Flanagan from any assets of Mr. Flanagan or assets of his bankruptcy estate without obtaining a further order of this Court so allowing; and
- C. Grant such other relief as is just and equitable.

Respectfully submitted,
LISA J. BELLANTI, as Special Administrator
of the Estate of Janet L. Flanagan

By her attorneys,
FORD, MCDONALD, & BORDEN, P.A.

Dated: October 16, 2023

By: /s/ Marc W. McDonald
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